Department of Environment and Labour

Occupational Health and Safety

Joint Occupational Health and Safety Committees: A Practical Guide for Single Employer Workplaces

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Introduction

Purpose of the Guide

This guide is designed to help employees and employers develop effective Joint Occupational Health and Safety Committees. The effective operation of a committee will greatly assist the employer in the implementation of a health and safety program. The guide addresses the establishment and operation of Joint Occupational Health and Safety Committees (referred to as the "committee" in the remainder of the document) for single employer workplaces. For information on the requirements for construction sites refer to the Department of Environment and Labour, Occupational Health and Safety Division publication *Construction Project Joint Occupational Health and Safety Committees: A Practical Guide.*

The information provided is not intended to be a substitute for the Occupational Health and Safety Act (the "Act") and should not be considered an authoritative legal directive. The guide provides both a summary of the requirements of the Act and suggestions that serve as guidelines to what individuals and organizations could do as a matter of good practice. A complete reading of the Act is encouraged.

Other sources of information

The Canadian Centre for Occupational Health and Safety publication entitled *Health and Safety Committees Reference Guide,* ISBN 0-662-28010-5, also provides an overview of committee operations. In particular the publication covers the "how to" of inspections and investigations which are not covered by this publication.

If you need further information, contact the
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The Occupational Health and Safety Act

The Occupational Health and Safety Act provides a legal basis for the protection of employees in the workplace. The foundation upon which the Act is built is the Internal Responsibility System (IRS). The IRS is based upon the principle that employees and employers share in the responsibility for creating and maintaining a healthy and safe workplace.

The creation of a Joint Occupational Health and Safety Committee is part of the employer's and employees' responsibility and right to participate. Sections 29 to 32 of the Act set out the requirements for committees. Refer to Appendix 6 for the relevant sections of the Act.

In keeping with the IRS, the role of the Occupational Health and Safety Division of the Nova Scotia Department of Environment and Labour is to establish and clarify the responsibilities of workplace parties and to support them in carrying out their responsibilities. When workplace parties do not carry out their responsibilities the Division will intervene to ensure compliance with the Act and regulations.

Requirement for a Joint Occupational Health and Safety Committee

What is a Joint Occupational Health and Safety Committee?

The committee consists of employers and employees working together to improve occupational health and safety in their workplace. In most Canadian jurisdictions a health and safety committee is mandatory. Even in workplaces where a committee is not required by law, the benefits of a committee in addressing workplace health and safety needs are widely recognized. Ultimately, the workplace parties (the employer and employees) are responsible and accountable for decisions made regarding occupational health and safety. However, the committee has a vital role to play in workplace health and safety by providing the workplace parties with advice on health and safety issues.

Does my workplace require a committee?

In Nova Scotia a health and safety committee is required where:

- 20 or more people are regularly employed at a workplace. This includes part- time, full-time, casual, and seasonal employees.
- 20 or more people are regularly employed at a construction site. This includes part-time, full-time, casual, and seasonal employees. Please contact the Occupational Health and Safety Division of the Nova Scotia Department of Environment and Labour for more information on the requirements for construction sites.
- the Director of the Occupational Health and Safety Division orders its establishment.

Who is responsible for establishing the committee?

The employer is responsible for establishing and maintaining the committee.

When would an employer be required to have more than one committee?

Where geographically separate workplaces exist under the ownership or control of one employer, they may be considered to be separate workplaces and therefore, if large enough, required to have their own committee. There will be cases where buildings that are separate but very close could reasonably be considered to be one workplace. This will vary from workplace to workplace. Factors to consider when determining the extent of a workplace are:

- do employees regularly move between different buildings to perform their jobs?
- the physical site or place where the employees work
- the nature and extent of the area that can be considered near where an employee works
- the workplace parties' views as to what the workplace comprises
- the practices of the employer in establishing a committee, including any collective agreement which may commit to a higher than statutory minimum
- the impact on employee health and safety of a particular determination of the workplace.

The challenge is to maintain a committee that is not too remote from a workplace to secure the benefits of drawing on experiences from various sites. The result is that an employer may provide for one or several committees.

Choosing Joint Occupational Health and Safety Committee Members

How many people should be on the committee?

The Act gives employers and employees the power to determine the actual number of people who will sit on the committee. However, the Act requires that at least half of the committee members must be non-management employees. The employer may choose up to half of the members if they so wish.

What factors should be considered when determining the size and structure of the committee?

The committee should be large enough to fairly represent groups of employees who have significantly different occupational health and safety concerns, but not so large as to be unmanageable. In a very large workplace, it may be useful to establish subcommittees, with these subcommittees reporting to the main committee.

Points to consider when determining the size and structure of the committee are:

- how complex is the organization?
- how many workers are involved?
- how many different job classifications are involved?
- how many employee organizations or unions are present at the workplace?
- how many different operations or processes are involved?
- what is the geographic location of these workers?
- what are the hazards in the workplace?
- what accident prevention measures are used in the workplace and are they effective?
- what are the existing health and safety problems?
- is there a formal education program for health and safety?
- are there sufficient numbers to perform the committee members' roles in inspections and investigations?

Who selects the committee members?

Employee members of a committee must be selected by the employees. In a unionized workplace, the employee members may be selected by the trade union or unions representing the workers.

The Act requires the employer to post the current names of committee members and the means of contacting them in the workplace.

What factors should be considered when choosing committee members?

Committee members should have relevant work experience, a strong commitment to health and safety, and be comfortable interacting with other employees. Factors to be considered when choosing members include:

- commitment to health and safety
- communication skills
- years of experience
- types of work performed
- hazards associated with work performed
- health and safety training.

Choosing people with experience and a strong commitment to health and safety will greatly enhance the effectiveness of the committee.

What is the role of the health and safety coordinator in relation to the committee?

Although it is not a requirement of the Act, many workplaces employ a health and safety coordinator or similar position. The coordinator should attend all committee meetings as they will be a good source of information for the committee. The coordinator may be a member of the committee, an advisor, or a guest. It is important, however, to ensure meetings are not dominated by the coordinator. The exact role of the coordinator in relation to the committee should be determined by the committee.

Procedures of Joint Occupational Health and Safety Committees

What are the rules of procedure for committees?

Committees must establish their own rules of procedure which includes a method for determining on an annual basis the persons or person who will hold the position of chair for the coming year. Most health and safety committees use a co-chair system. One co-chair must be selected by the employee members to represent the employees. The other co-chair usually represents the employer. Chairing of the meetings often alternates between the two. A co-chair system provides balance to the committee and also splits the workload for each co-chair.

In order for the committee to operate effectively the rules of procedure should include provision for how the committee will participate in or deal with:

- composition of the committee
- term of appointment of members
- the way in which meetings are to be called
- who can call a meeting
- notice to be given for regular meetings (should be at least two days in advance of a meeting)
- frequency of meetings
- emergency meetings
- conditions under which emergency meetings will be called
- conduct of meetings
- setting the agenda
- matters the Act requires the employer to consult the committee on
- inspections
- investigations
- hazard identification
- responses to complaints, work refusals, accidents, or incidents reported to the committee or committee members
- communications
- recommendations
- minutes/record maintenance and storage
- quorum
- chairing
- meeting frequency
- method of reaching decisions.

When should the committee meet?

At a minimum, the committee should meet at least once a month. It may be appropriate, depending on the type of work or number of employees, for the committee to meet more often. The frequency of meetings may also be impacted by the seasonal nature of a workplace. Any change to the frequency of meetings must be allowed for by the committee in its rules of procedure.

If the Director of the Occupational Health and Safety Division is not satisfied that the frequency of meetings that has been established in the rules of procedure is sufficient to ensure the proper functioning of the committee, the Director may require a different frequency.

Do committee members get paid for time spent on committee duties?

Yes. Employees who are members of committees must be paid for time away from their regular duties for participation in committee related activities. They are required to be paid by the employer at the rate they would be paid if they were doing their regular job at the time of the committee activity.

Activities related to committee functions include:

- reviewing and providing advice on the occupational health and safety policy and program
- preparing recommendations
- attending training required by regulation and/or necessary to carry out the employee's functions as a committee member
- participating in inspections, investigations, or similar activities
- preparing and reviewing inspection results and hazard reports
- preparing recommendations
- attending meetings
- observing tests
- dealing with work refusals
- carrying out agreed upon committee activities.

What happens if agreement is not reached on the composition or procedures of the committee?

The decisions made with respect to the composition and procedures of the committee are best made by the workplace parties. If the employer and the employees cannot reach agreement on the size of the committee, the designation of employees to be members, or the rules of procedure, the Director of the Occupational Health and Safety Division will determine the outcome.

Meetings of the Joint Occupational Health and Safety Committee

What is the purpose of a committee meeting?

The purpose of the meeting is to exchange information and make recommendations to the employer regarding health and safety concerns in the workplace.

How many committee members must be present in order to conduct a meeting?

The Act does not specify the minimum number of committee members present to conduct a meeting. This is something that would be decided in the rules of procedure. However, each meeting of the committee should have at least fifty percent of the members present, with fifty percent of the employee representatives and at least one employer representative at the meeting. Regular attendance at meetings is a must and should be encouraged and facilitated.

How are committee members to be notified of meetings?

All committee members should be notified at least two days in advance of meetings and told the date, time and place of each meeting. Meetings should be scheduled with committee members work schedules in mind. This information should be included in the minutes of the previous meeting. The minutes are required to be posted by the employer.

In order to operate effectively, committees require information about workplace inspections and incidents. The employer should notify committee members of incidents and accidents by forwarding copies of reports to committee members as soon as possible to allow time for the reports to be reviewed.

How is an agenda to be prepared?

The preparation of an agenda is an important part of the effective operation of committee meetings because it establishes the format for the meetings and provides a means of organizing the meeting. The co-chair should review the minutes and post a draft agenda for the next meeting along with the minutes of the previous meeting. All committee members should give the chairperson or co-chairpersons ample notice of items they wish to raise at the meeting. An agenda should be prepared by the chairperson(s) and be distributed to all members at least one week in advance of the meeting. The agenda could include the following items:

- roll call
- approval of the minutes of the last meeting
- unfinished business
- workplace health and safety topic for discussion
- review of complaints
- review of incidents
- review of inspection reports
- review of reports related to occupational health and safety
- update on health and safety training
- special assignment reports by members and subcommittees
- new business
- adjournment.

It's a good idea to create a calender of occupational health and safety topics to be discussed throughout the year. Topics could be scheduled for each meeting, every other meeting, and so on. The frequency would depend on the meeting schedule of the committee. The goal is to discuss and make recommendations regarding potential health and safety hazards before they happen.

Refer to Appendix 1 for a sample agenda.

Refer to Appendix 2 for a sample calendar of occupational health and safety topics of discussion.

How should meetings be conducted?

It is not necessary for committee meetings to follow strict parliamentary procedures with motions, amendments, and votes on each motion. Following the guidance of the co-chairs, the committee should reach agreement through consensus rather than deciding matters by majority vote. The keys to successful committee meetings are:

- regular attendance
- beginning on time
- following the agenda
- discussing one item at a time
- proposing a solution if required
- keeping the meeting on track
- assigning responsibilities including deadlines
- closing the meeting on a positive note.

More formal procedures for conducting meetings can be found in Appendix 5.

Must minutes of the committee meetings be kept?

The Act requires minutes of meetings to be kept. Minutes provide a permanent record of the decisions reached and a record of the committee's activities and successes. Minutes of meetings should:

- include the name and address of the workplace and employer
- state the date and time of the meeting
- list those in attendance
- include agenda items
- list agenda items not discussed or unfinished
- include a clear statement of the nature of the items discussed
- include a clear statement of the nature of all health and safety hazards discussed
- list concerns or complaints of members, if any, and a description of each
- list concerns dealt with between meetings, if any
- include a statement about any
  - inspection or investigation done
  - complaint or work refusal received
  - report of an accident or incident
- be short and factual
- indicate where action is required
- indicate who is responsible for each action to be taken
- have a deadline for the action to be taken
- explain why, if applicable, action was not taken and when the action is expected to be complete
- specify any reports that are required
- be approved by the co - chairpersons.

The employer is required to post minutes of committee meetings. Minutes provide a written record of health and safety activity at the workplace and should be retained by the employer for at least five years.

Refer to Appendix 3 for samples of committee minutes.

What if a committee member disputes the accuracy of the minutes?

When a committee member disputes the accuracy of the minutes of a meeting, the matter should be raised at the next meeting and corrections can be noted in the minutes.

Roles and Responsibilities of the Joint Occupational Health and Safety Committee

The function of the committee is to involve employers and employees together in occupational health and safety in the workplace. This includes, but is not limited to:

- the cooperative identification of hazards to health and safety and effective systems to respond to the hazards
- the cooperative auditing of compliance with health and safety requirements in the workplace
- receiving, investigating and promptly handling matters and complaints with respect to workplace health and safety
- participating in inspections and investigations concerning workplace health and safety and accompanying a Department of Environment and Labour Occupational Health and Safety Officer during workplace inspections
- advising on individual protective devices and equipment that are best suited to the needs of the employees
- advising the employer regarding a policy and program and making recommendations to the employer, employees or any other persons for the improvement of health and safety at the workplace
- maintaining records and minutes of committee meetings
- performing any other duties assigned to it by the Director, by agreement between the employer and the employees or union, or as are established by the regulations.

Is the employer required to train committee members?

To help ensure the effective and efficient operation of the committee, members should be trained. The Act requires that employers provide training so that employees can do their jobs in a safe and healthy manner. The provision of training to committee members that is specific to the functions of the committee will greatly enhance the ability of members to carry out their duties and therefore improve the health and safety of employees. The employer should ensure committee members are trained in:

- the Internal Responsibility System
- the Occupational Health and Safety Act
- the general content of the regulations and the role of the committee in these regulations
- the policy and program in the workplace
- evaluation of the policy and program in the workplace
- evaluation of committee training
- the functions of the committee and its rules of procedure
- the role of the committee in:
  - inspections
  - hazard identification
  - investigations
  - complaints
  - work refusals
  - problem solving
  - communications.

In order to ensure that all relevant topics are covered in the training of committee members, the employer should consult periodically with the committee to review the training program.

To obtain a list of consultants in the Province who have informed the Department of Environment and Labour that they provide training for committee members please contact the Occupational Health and Safety Division at the address noted on page 1.

What type of support does the committee require?

In addition to training, committees require other types of support to carry out their functions. It is very important that committee members be excused from their regular duties so that they are able to attend meetings. For example, the employer could schedule another employee to cover the committee members' shift while they attend the committee meeting. Members should also be given time away from their regular duties to prepare for committee meetings. The amount of time allowed for preparation may be included in the health and safety program or rules of procedure for the committee.
In addition, the employer should ensure that committees:

- have an appropriate space to meet in
- have materials such as note books, pens, file folders etc. available to them
- have access to presentation equipment (overhead machines, flip charts) present at the workplace
- are able to access administrative support when needed.

The actual amount of support will vary depending upon the size and number of committees, and the type of workplace.

What is the role of the committee in the preparation and review of an occupational health and safety policy and program?

The Act requires the employer to prepare and review annually a written occupational health and safety policy and to prepare and maintain a written occupational heath and safety program. Both must be done in consultation with the committee.

It is important that the committee be given a real opportunity to provide input into the development of the policy and program, and other health and safety related policies and procedures. This means the committee should be given ample time, information, and opportunity to make informed recommendations with regard to policy and program content.

What is the regulatory role of the committee?

Workplace Hazardous Materials Information System (WHMIS) Regulations

The WHMIS Regulations require the committee to be consulted regarding the development and annual review of the employee education program required in Section 4.

First Aid Regulations

The First Aid Regulations require the employer to consult the committee in the development of first aid remote location plans where such a plan is required.

Occupational Safety General Regulations

The Occupational Safety General Regulations require the employer to consult the committee when developing or reviewing any written policy or procedure required by the regulation.

Regulations under review, or in the process of being drafted, may also require consultation with the committee.

How often should workplace inspections by the committee be carried out?

Regular inspections help identify hazards and prevent accidents. The number and frequency of inspections depends upon a number of factors. These include:

- number and size of different work operations
- type of equipment and work processes - those that are hazardous or potentially hazardous may require more frequent inspections
- number of shifts - the activity on each shift may vary
- new processes or machinery
- size and complexity of the work area.

The rules of procedure for the committee and the health and safety program should state the frequency and number of inspections. The committee should develop an inspection schedule appropriate for the work place that allows for follow-up.

What Is the role of the committee and committee members in dealing with employee concerns?

An employee is required to report any hazards or a contravention of the Act or regulations to a supervisor. If the matter is not resolved to the satisfaction of the employee, he or she must then report it to the committee, either verbally or in writing.

The Committee Member

When a matter has been reported to a committee member, the member should follow the committee's established procedures for dealing with employee health and safety concerns. These may include:

1 determine the facts of the situation

2 encourage resolution of the matter by a first - line supervisor, the employer's health and safety coordinator or other person with designated responsibility in the area involved

3 if the matter is not resolved at step 1., the member should raise the issue at the next committee meeting or consider calling an emergency meeting

4 respond to the employee who initiated the complaint or concern, where possible, within one shift worked by that employee and advise them of how the concern is being handled. The employee may choose to contact the Occupational Health and Safety Division if the concern is not being handled to their satisfaction

5 if the matter involves an immediate source of danger and satisfactory action is not taken by the employer, the committee member should report the complaint or concern to the Occupational Health and Safety Division.

The Committee

The committee should follow established procedures for dealing with employee health and safety concerns which should include:

1 investigating the concern and making a recommendation to management

2 notifying the employee of any decision or recommendation made by the committee to management with respect to the employee's concern. The majority of health and safety problems referred to the committee should be resolved by making an appropriate recommendation to management

3 if the matter involves an immediate source of danger and satisfactory action is not taken by the employer, the committee should report the complaint or concern to the Occupational Health and Safety Division.

Where the employees' concern is not dealt with to their satisfaction by the committee, the employee is required by the Act to report the concern to a Department of Environment and Labour Occupational Health and Safety Officer. The officer will review the situation and, if appropriate, make recommendations. Where there has been a contravention of the Act, the officer may issue an order.

What steps should a committee member and the committee take upon receiving a report of a refusal to work?

Any employee may refuse to do any work if the employee has reasonable grounds for believing the work is likely to endanger their health or safety or the health or safety of any other person.

The steps to be taken by a committee member and the committee in the event of a work refusal are to be established in the rules of procedure for the committee.

The Committee member

The committee member should:

1 determine why the matter was not dealt with to the employee's satisfaction. Questions to ask may include:
   - did the employee tell the supervisor?
   - did the supervisor investigate?
   - if the supervisor investigated, what was their response?
   - why does the employee still believe the work is unsafe or unhealthy?
   - has the employee been reassigned to other work?

The committee member should explain the work refusal provisions of the Act (section 43) and how the process will work. See Appendix 6.

All work refusals should be reported to the committee as a whole and reviewed.

2 the member should follow the procedures established by the committee which may include initiating an emergency committee meeting to deal with the work refusal as it may not be practical to call a meeting of the entire committee on such short notice. The rules of procedure for the committee may establish a sub-committee that will deal with work refusals

3 respond to the employee who initiated the complaint or concern, where possible, within one shift worked by that employee.

The Committee

The committee should:

1 investigate the work refusal. The refusing employee should accompany the committee during a physical inspection related to the refusal

2 if all committee members find the work to be safe and healthy, the committee will advise the employee to return to work. The unanimous decision to advise the employee to return to work must be made by a quorum of the entire committee. If the committee advises the employee to return to work, the employee's right to pay during the work refusal ends
OR

3 if one or more committee members finds the work to be unsafe or unhealthy, make a recommendation to the employer to have the problem fixed. If the problem is fixed, advise the employee to return to work.

If the committee cannot reach a unanimous decision on a recommendation to return to work, or if the problem is not resolved to the employee's satisfaction, the employee should contact a Department of Environment and Labour Occupational Health and Safety Officer and indicate that they have refused to work.

The Occupational Health and Safety Officer will investigate. If the officer finds it would be healthy and safe to do so, they will advise the employee to return to work. Or, if the officer finds that it would not be healthy or safe to continue the work, the officer will issue an order to correct any unsafe or unhealthy condition. The officer will prepare a report including information on the refusal and reasons supporting the officer's decision. A copy of the officers's decision will be given to the concerned parties.

The rights of an employee during a work refusal are contained in section 43 of the Act and section 45 of the Act deals with discriminatory action. Both are contained in Appendix 6.

What is the role of the Department of Environment and Labour Occupational Health and Safety Officers?

Department of Environment and Labour Occupational Health and Safety Officers uphold and enforce the Act. They inspect workplaces, investigate hazardous situations, accidents and work refusals. An officer may issue orders where there is a contravention of the Act or Regulations. In addition, officers are available to provide advice where there are workplace concerns which could benefit from their participation. Committees may find it helpful to enlist the assistance of an Occupational Health and Safety Officer to:

- provide advice on preparing the rules of procedure for the committee
- act as a facilitator when the committee cannot reach agreement on recommendations
- provide health and safety information.

Are committee members required to be notified when an Occupational Health and Safety Officer makes an inspection of the workplace?

Yes. When a Department of Environment and Labour Occupational Health and Safety Officer makes an inspection of a workplace the employer must give an employee committee member the opportunity to accompany the officer during their inspection of the workplace.

What about confidentiality?

Committee members are permitted access to information required for the fulfilment of committee duties. However, the Act does not allow committee members to disclose medical information, confidential trade, or confidential business information. Where specifically allowed by the Act or as required by law, information can be disclosed. One example is the release of the chemical identity of a trade secret chemical in the event of a medical emergency.

What if recommendations of the committee are not acted upon by the employer?

Where a written recommendation is made and the committee requests in writing a response to the recommendation, the employer must respond within 21 days with an indication that it will be accepted or the reason why it will not. The employer should adopt a procedure for providing the committee with access to a manager who can address the recommendation or request. This will assist in ensuring prompt responses to recommendations or requests.

The employer should carefully consider all recommendations of the committee. The committee is, in effect, a specialized in-house consultant. Members have been chosen for their experience, knowledge, and commitment to health and safety. If the employer decides not to use or act on the advice of the committee, an explanation should be provided to the committee.

If the committee has requested a response to a recommendation, and is not satisfied with the response or believes that any proposed delay is not reasonable, the chair or co-chairs are to report this fact to a Department of Environment and Labour Occupational Health and Safety Officer.

The officer may offer consultative support to the workplace or may issue an order where there are contraventions of the Act or Regulations.

How should serious immediate hazards be dealt with?

Depending on the seriousness of a hazard, it may not be appropriate to wait 21 days for a response to a recommendation. Section 17(2) of the Act requires employees to report conditions that may be hazardous to an employee's health and safety to the Occupational Health and Safety Division where the condition is not dealt with to their satisfaction by the supervisor or the committee.

Rights of the Joint Occupational Health and Safety Committee

What are the committee's rights regarding information?

The employer, upon request from the committee at the workplace, must provide the committee with

- reports of workplace occupational health or safety inspections, monitoring, or tests. The employer must notify the committee that such reports exist so that the committee can decide whether or not they want to request them
- if the Workers' Compensation Act applies to the workplace, an annual summary of data relating to the employer. The employer can obtain this information from the Occupational Health and Safety Division if the request is made.

The employer is also required to provide the committee with a copy of:

- an order of a Department of Environment and Labour Occupational Health and Safety Officer against the employer
- a compliance notice required of the employer
- notice that an appeal has been initiated or disposed of
- notice of accidents required to be reported to the Director of the Occupational Health and Safety Division
- an application for an authorized deviation from regulations
- the Director's decision regarding the application for deviation from regulations.

The work of the committee will be facilitated if each member receives a copy in paper form.

What are the committee's rights regarding workplace monitoring, measurements and tests?

The employer must allow an employee selected by the committee to observe workplace occupational health and safety monitoring and sampling.

In cases where the monitoring is done continuously, regularly or frequently, the employer must allow the employee selected by the committee to observe

- the initial setup of the monitoring process
- monitoring and sampling where there has been a malfunction of the monitor, or an alteration in the process.

The committee must be notified enough in advance of the monitoring to allow the committee sufficient time to choose an employee to observe the monitoring or sampling.

The employer must also:

- provide reasonable notice of the time when the monitoring, measurements, or tests will take place to the employee selected to observe
- ensure an explanation of the monitoring and sampling is provided to the employee if they request one
- pay the employee chosen to observe at the regular rate they would be paid if asked by the employer to do their regular job at that time.

An employer is not required to permit an employee to observe monitoring, measurements or tests

- carried out on a continuous, regular, or frequent basis
- carried out in a remote location by an employee at the location
- during an emergency.

Evaluating the Effectiveness of the Committee

In order to maintain and improve its efforts, the committee should have some measure of its past performance. In this way, weak areas can be strengthened and strong areas maintained. Generally, the best way to do this is to compare the work of the committee to the functions it is required to carry out. Questions that will assist in this evaluation are as follows:

Do employees know who the members of the committee are?

A strong indication that a committee may not be operating as effectively as it might be is when employees do not know who their committee members are. In order to carry out his/her duties effectively a committee member must communicate with the employees in his/her area on health and safety matters. Each member should take the initiative in making themselves known to employees.

Do employees make suggestions to members?

When employees regularly make suggestions to committee members it indicates that communication channels are open and operating the way they should and that employees have confidence in members. In order to ensure this continues, any employee who raises a health and safety matter should be given a prompt response. If this is not possible, an explanation of why there is a delay should follow.

Are matters brought to the attention of the committee dealt with promptly?

Long delays in addressing employee concerns, questions, or complaints indicates a lack of responsiveness on the part of the committee. The committee should address issues as soon as possible and explain the reasons for any delay to the employee/s. The time it takes for issues to be resolved should be tracked and evaluated at the end of the year.

Have committee members received training?

Appropriate and adequate training of committee members will go a long way in improving the operation of the committee. Members who are adequately trained will understand the functions of the committee and be able to carry out their duties more effectively. Committee training should include:

- the Internal Responsibility System
- the Occupational Health and Safety Act
- the general content of the regulations and the role of the committee in these regulations
- the policy and program in the workplace
- evaluation of the policy and program in the workplace
- evaluation of committee training
- the functions of the committee and its rules of procedure
- the role of the committee in:
  - inspections
  - hazard identification
  - investigations
  - complaints
  - work refusals
- problem solving
- communications.

To obtain a list of consultants in the Province who have informed the Department of Environment and Labour that they provide training for committee members please contact the Occupational Health and Safety Division.

How many committee recommendations are implemented?

A measure directly related to the committee's credibility and effectiveness is the number of significant recommendations that have been implemented. If this number is small in relation to the number of recommendations made, it may indicate a lack of commitment by the employer to health and safety, or that recommendations made are unrealistic, or both. In either case, the committee will be ineffective. A strong employer commitment to health and safety and comprehensive, feasible recommendations are necessary for the effective operation of the committee.

Refer to Appendix 4 for a further listing of questions to ask when evaluating the effectiveness of your committee.

Appendix 1

Sample Agenda for Joint Occupational Health and Safety Committee Meeting

Joint Occupational Health and Safety Committee Meeting
ABC Company, January 7, 1997

Agenda Items

No.	Item	Person Responsible	Time allotted
1.0	Roll Call	Bob	2 min
2.0	Approval of Minutes of Last Meeting	Bob	10 min
3.0	Outstanding Items From Previous Meeting	Bob	15 min
4.0	Health and Safety Complaints	June	20 min
5.0	Review of Incidents	Rick	15 min
6.0	Update on Health and Safety Training	John	15 min
7.0	Ergonomics Safety: Office, Vehicle, Shipping and Receiving, Shops, Other	John	15 min
8.0	Management Request: Committee Input on Furniture Purchase	Bob	15 min
7.0	New Business	Bob	15 min
8.0	Date and Time of Next Meeting	Bob	2 min
9.0	Adjournment		

Please remember the ground rules:

- Be prompt and regular in attendance
- Enter discussion enthusiastically
- Give freely of your experience
- Allow and encourage others
- Listen attentively, take accurate notes
- Ask questions
- Appreciate other viewpoints
- Provide constructive feedback
- Receive feedback willingly
- Keep confidences
- Stick to the topic

Appendix 2

Sample Calendar of Occupational Health and Safety Discussion Topics

Suggested Joint Occupational Health and Safety Committee Discussion Topics for 1998

ABC Printing, 18 Carter Street

February	Annual Reports Committee Report to Management Accident and Incident Summary Report
March	First Aid Review Training Kits and Stations Replenished and Identified Names of First Aiders Posted
April	Preventive Maintenance HVAC, Carpets, Lighting, Security, Machinery, Equipment, Vehicles, Buildings and Grounds
May	WHMIS Annual Review Training MSDS Available and up to Date? Substitution Available?
June	Ergonomics Safety Office, Vehicle, Shipping and Receiving, Shops, Other
September	Health and Safety Policy and Program Review Policy Posted? Up to Date? Program Adequate?
October	Fire Safety Month Drill Fire Evacuation Plan, wardens, Signs, Fire Extinguisher Servicing, Training in Use
November	Written Safe Operating Procedures Review Confined Spaces Hazardous Operations Fall Protection
December	Workplace Inspection Review
January	Setting Goals for New Initiatives Back Care IAQ Improvement, Smoking Cessation

Appendix 3

Sample Minutes from Joint Occupational Health and Safety Committee Meeting

Sample # 1 - Paragraph Form

ABC Grocery, 1812 Farmer Lane

Minutes of Joint Occupational Health and Safety Committee Meeting held January 10, 1997

Mrs. Smith opened the meting at 10:00AM in Board Rm D. The following were in attendance:

R.S. Smith	Assistant Manager	Co-chair (Employer)
K. Charles	Cashier	Co-chair (Employee)
E.F. White	Personnel Officer	Member (Employer)
B.E. Green	Meat Cutter	Member (Employee)
J.F. Bertrand	Accountant	Member & Secretary for meeting (Employer)
Z. Abby	Cashier	Member (Employee)
L.Burton	Produce Manager	Member (Employer)
J.F. Wilson	Loading Dock	Member (Employee)
J. Contant	Safety Officer	Visitor

1.0 Roll Call

Ms. Smith recorded the names of those present at the meeting.

2.0 Approval of Minutes of Last Meeting

Jerry Wilson noted that it was Barry Green who was to inquire about new gloves for Meat Department staff and not himself. Jerry Wilson moved to accept the minutes with the change and Larry Burton seconded the motion. The minutes were approved.

3.0 Outstanding Items From Previous Meeting

Gloves for Meat Department Staff
Barry Green explained that he had contacted three companies who supplied the type of glove needed by the Meat Department. At the previous meeting Barry had relayed the concerns of meat department employees that it was hard to grip the knives with the gloves presently being used. The lowest price was $3.00 per pair. Karen Charles asked whether the quality of the $3.00 per pair gloves was comparable to the gloves supplied by the other companies. Barry has samples being mailed and will report on the quality of the gloves at the next meeting.

Meeting Times
Erin White reported that the committee would no longer be able to meet at 2:00PM on the last Thursday of every month as the Board Room will be used for a general staff meeting at that time. The Board room is available at 10:00 AM. It was agreed to meet at 10:00AM instead of 2:00PM from now on. Erin will book the Board Room.

4.0 Health and Safety Complaints

Zelda Abby reported that a number of cashiers were complaining of back pain. Some had indicated they believed it was because the conveyers were too low causing them to bend over to scan and pack groceries. Jeff Contant offered to inspect the cashier's working area and interview the cashiers. He will report the findings at the next meeting.

5.0 Review of Incidents

There were no incidents to report.

6.0 Update on Health and Safety Training

Jeff Contant reported that all staff have now received a two hour training session on proper lifting techniques. Training sessions for new staff will be held when there are at least three staff to be trained. Erin White stated that there are plans to hire only 2 new staff in the next 2 months and didn't think it was reasonable for someone to wait indefinitely for training. It was agreed by the committee to make a recommendation that new staff members be trained when hired. Training should be held regardless of the number to be trained.

Hazard Identification training will be held on February 8, 15, & 22. Joseph Bertrand will notify management of the dates so they may schedule staff accordingly.

Larry Burton commented that he believes the cafeteria staff need some general safety training on the use of cooking equipment and cutting tools as he has witnessed some unsafe use of equipment. Jeff Contant will investigate the need for training and report at the next meeting.

7.0 New Business

Karen Charles stressed the importance of being on time for meetings as all members have tight schedules.

Rachel Smith reported she has been questioned by staff as to where to find the minutes of committee meetings. When told they were posted in the lunch room, some staff commented they never go in the lunch room. Possible locations for posting of minutes were discussed. It was agreed to post the minutes in the coat room in addition to the lunch room. Jake Bertrand will post the minutes in the coat room from now on, staring with the minutes of this meeting.

Proactive Topic for the Month: Preventive Maintenance
Ms. Smith stated that this months' proactive topic for the committee was preventive maintenance. All departments in the store will conduct inspections and note where maintenance needs to be done.

Jerry Wilson asked how this fits in with the regular monthly inspections of departments. Ms. Smith replied that this was an opportunity to highlight items that are not always addressed in regular inspections.

Request for Input on Carpet Purchase
Jake Bertrand announced that it looked as though new carpeting is needed in the offices. He requested the committee report to him at the next meeting if there was any particular carpeting that should be purchased. Committee members will canvas the employees in their departments to determine if there are any special concerns. The results will be reported at the next meeting.

Jeff Contant noted that the carpeting will likely need to sit in the warehouse for a month to off-gas before it is installed.

10.0 Next Meeting

The next meeting will be held at 10:00AM in the Board Room on February 12, 1997.

11.0 Adjournment

The meeting was adjourned at 12:00 NOON.

R.S. Smith K. Charles

Sample # 2 - Table Form

Minutes of Joint Occupational Health and Safety Committee Meeting held January 10, 1997, ABC Grocery, 1812 Farmer Lane

In attendance:

R.S. Smith, Employer (Co - chair)
E.F. White, Employer
J.F. Bertrand, Employer
L.Burton, Employer
J. Contant, Visitor

K. Charles, Employee (Co - chair)
B.E. Green, Employee
Z. Abby, Employee
J.F. Wilson, Employee

Old Business	Action By	Date Required
Approval of Minutes Minutes approved with corrections.		
Gloves for Meat Department Staff Barry Green will report on samples of gloves for Meat Department Staff at the next meeting.	Barry Green	February 12,1997
Meeting Times It was agreed that committee meetings will now be scheduled for 10:00AM in the Board Room.	Erin White	January 15,1997
Health and Safety Complaints Zelda Abby reported that a number of cashiers have reported back pain. An investigation will be carried out by the Safety Officer.	Jeff Contant	February 12,1997
Update on Health and Safety Training Jeff Contant reported that all staff have received 2 hour training session on proper lifting techniques. It was agreed that new staff members should be trained when hired. A recommendation will be made to management.	R.S. Smith	January 17, 1997
Larry Burton commented that a training needs assessment for cafeteria staff should be done.	Jeff Contant	March 10, 1997
Management are to be notified of upcoming Hazard Identification training.	J.F. Bertrand	January 15, 1997

New Business	Action By	Date Required
Preventive Maintenance: HVAC, Carpets, Lighting, Security, Machinery, Equipment, Vehicles, Buildings and Grounds Ms. Smith stated that this months' proactive topic for the committee, decided at an earlier meeting, was preventive maintenance. All departments in the store will conduct inspections and note where maintenance needs to be done.	Department Heads	Next Meeting
Management Request: Input from committee on purchase of carpeting Jake Bertrand requested the committee report to him at the next meeting if there was any particular carpeting that should be purchased. Committee members will canvas the employees in their departments to determine if there are any special concerns. The results will be reported at the next meeting.	All committee members	Next Meeting
Meeting Punctuality Karen Charles stressed the importance of being on time for meetings.	All committee members	
Posting of Minutes It was agreed that copies of the minutes will now be posted in the coat room in addition to the lunch room.	J.F. Bertrand	January 12, 1997

The meeting adjourned at 3:15 PM.

The next meeting is 10:00AM in the Board Room on February 12, 1997.

R.S. Smith
Co-chair

K. Charles
Co-chair

Appendix 4

Questions to ask when evaluating the effectiveness of joint occupational health and safety committees

Are the duties and authority of members known to the employees?

Is the committee perceived by employees as performing a useful function in providing leadership in safety?

Is the committee perceived by management as usurping its responsibilities and authority?

Are members perceived by line supervisors as a barrier to employee/supervisor communication in safety?

Is the committee perceived by labour as reducing management's responsibility for maintaining a safe workplace?

Are members perceived as enforcers or advisors?

Does management representation on the committee reflect its strong commitment to safety?

In a unionized workplace, what support does the union provide to its members on the committee?

What proportion of members' time during paid work hours is spent on health and safety activities?

Appendix 5

Sample rules of Procedure of Meetings of a Committee

Presiding a Meeting

1 (1) The co-chairpersons or a chairperson is responsible for conducting a well- organized and effective meeting of the committee in accordance with the following rules of order.

(2) The co-chairpersons shall conduct a meeting in a fair and impartial manner and give every member an opportunity to participate and speak at a meeting.

2 Prior to every meeting, a co-chairperson shall ensure that the person who is to record the minutes of the meeting is present or request a member present to record the minutes.

3 At the opening of every meeting, a co-chairperson or chairperson shall

(a) call the meeting of the committee to order;

(b) note if a quorum exists, in accordance with these rules of procedure and if there is no quorum, adjourn the meeting to another time;

(c) call for a motion to adopt the agenda for the meeting after requesting if any changes or additions are proposed to the agenda;

(d) after discussion of the motion to adopt the agenda, call for a vote to adopt the agenda as proposed or as amended;

(e) call for a motion to adopt the previous minutes of the committee, if any, after requesting if any corrections or additions are needed to the minutes;

(f) after a discussion of the motion to adopt the previous minutes, call for a vote to declare the minutes, with corrections or additions, if any, to be adopted;

(g) proceed with the succeeding agenda items;

(h) call for a motion to adjourn the meeting if all the agenda items have been dealt with or no more time is available; and

(i) after discussion of the motion to adjourn, call for a vote to adjourn the meeting.

Motions

4 (1) A member may make a motion by

(a) raising a hand or standing; and

(b) after being recognized by the co-chairperson or chairperson, by moving a proposal as clearly and as simply as possible.

(2) The co-chairperson may rule the motion of a member in order or temporarily out of order, if it does not conform to the order of business.

5 (1) For a motion which is in order, a co-chairperson shall call for a second to the motion.

(2) If no member seconds the motion, the co-chairperson shall state that the motion is dropped for want of a second.

(3) After a motion has been seconded, the co-chairperson shall restate the motion and ask for discussion.

(4) The co-chairperson shall allow adequate time for discussion before voting.

6 (1) A member may move an amendment to a motion on the floor.

(2) If seconded, discussion and a vote shall be held on the motion as amended prior to discussion and vote on the main motion.

7 (1) A member may raise a point of order involving these rules of procedure and the rights of a member at any time during the meeting.

(2) The co-chairperson shall make a decision on the point of order before a motion or amendment to a motion is acted on.

8 (1) A member may make a motion - 1. to adjourn, 2. to recess, or 3. to raise a personal privilege at any time during the meeting.

(2) A motion to adjourn or to recess, requires a second and is not debatable and shall be voted on prior to any other motion pending.

(3) If more than one motion referred to in subrule (1) is made, it shall be acted on in the order set out in subrule (1).

(4) The co-chairperson shall declare the meeting adjourned if the motion to adjourn carries.

9 (1) A member seeking personal privilege may interrupt the speaker and raise a matter that involves the immediate comfort or right of a member.

(2) The co-chairperson or chairperson shall attend to the motion which involves personal privilege without delay.

Discussion and Vote

10 Every member has the right to participate in any meeting and to one vote.

11 A member may speak without interruption except if another member makes a motion

(a) subject to time limit or a motion to reconsider by a member voting with the side that carried the motion; or

(b) a motion raising a personal privilege, a request for information, or a point of order.

12 Where several members simultaneously want to be recognized, the co- chairperson shall recognize a member in the following order of preference

(1) a member who explains a proposal has the first opportunity to offer a motion;

(2) a member who has not engaged in the discussion is recognized ahead of one who has spoken; and

(3) a member who is opposed to a motion is given an opportunity to follow one who is in favour of the motion.

13 A member's remarks shall

(1) pertain to the question being debated. If the member wanders off the subject, the co-chairperson must request remarks be confined to the pending question;

(2) be impersonal and addressed to the motion being considered; and

(3) be orderly and courteous; otherwise, the co-chairperson may refuse the offending member the right to speak.

14 The co-chairperson shall assure that the member speaking is heard by insisting members listen and not permit irrelevant discussion.

15 (1) When all members wishing to speak have spoken, the co-chairperson brings the question to a vote by asking if there is further discussion, and then calls for the vote.

(2) If the discussion drags on for too long or no new facts or opinions seem to surface by further discussion, any member may move to close debate and vote on the question and this motion requires a second.

(3) A motion referred to in subrule (2), if seconded, is not debatable and the co-chairperson shall at once call the vote on whether the discussion continues.

(4) Without a motion to close debate, a member wishing to discuss the question, even after part of the vote is taken, may do so and the complete vote shall be retaken.

16 (1) Unless otherwise specified in the Act or the regulations or the rules of procedure, a vote of a majority of the members present carries a motion.

(2) In the case of a tie vote, the co-chairperson may cast the deciding vote, or the motion is lost.

(3) The co-chairperson shall

(a) ask first for a vote of those in favour of a motion to say "yes, and then for those opposed to it to say "no"; and

(b) decide and declare the outcome of the vote.

(4) If a voice vote is uncertain, the co-chairperson may call for a show of hands.

(5) Members may change their vote until the co-chairperson announces the result of the vote.

Appendix 6

Relevant Sections of the Occupational Health and Safety Act

Joint Health and Safety Committees

Requirement for committees

29 (1) At every workplace where twenty or more persons are regularly employed, the employer shall establish and maintain one joint occupational health and safety committee or, at the discretion of the employer, more than one such committee and, where twenty or more persons are regularly employed by one or more constructors at a project, a constructor shall establish and maintain a joint occupational health and safety committee for the project.

(2) At a workplace where fewer than twenty persons are regularly employed, the Director may
(a) consult with the employer and employees at the workplace regarding whether a committee should be formed at the workplace; and
(b) order that a committee be established.

(3) Where an order respecting establishment of a committee is given pursuant to subsection (2), the employer shall ensure that the committee is chosen and functioning in accordance with this Act within fifteen days of receipt of the order.

Composition and procedure of committee

30 (1) A committee shall consist of such number of persons as may be agreed to by the employer and the employees or their union or unions.

(2) At least half of the members of a committee shall be employees at the workplace who are not connected with the management of the workplace and the employer may choose up to one half of the members of the committee if the employer wishes to do so.

(3) The employees on the committee are to be determined by the employees they represent, or designated by the union that represents the employees.

(4) A committee shall meet at least once each month unless
(a) a different frequency is prescribed by the regulations; or
(b) the committee alters the required frequency of meetings in its rules of procedure.

(5) Where a committee alters the required frequency of meetings by its rules of procedure and the Director is not satisfied that the frequency of meetings is sufficient to enable the committee to effectively perform its functions, the frequency of meetings shall be as determined by the Director.

(6) An employee who is a member of a committee is entitled to such time off from work as is necessary to attend meetings of the committee, to take any training prescribed by the regulations and to carry out the employee's functions as a member of the committee, and such time off is deemed to be work time for which the employee shall be paid by the employer at the applicable rate.

(7) A committee shall establish its own rules of procedure and shall adhere to the applicable regulations.

(8) Unless a committee determines another arrangement for chairing the committee in its rules of procedure, two of the members of the committee shall co-chair the committee, one of whom shall be selected by the members who represent employees and the other of whom shall be selected by the other members.

(9) The rules of procedure established pursuant to subsection (7) shall include an annual determination of the method of selecting the person or persons who shall
(a) chair the committee; and
(b) hold the position of chair for the coming year.

(10) Where agreement is not reached on
(a) the size of the committee;
(b) the designation of employees to be members; or
(c) rules of procedure,
the Director shall determine the matter.

Functions of committees

31 (1) It is the function of the committee to involve employers and employees together in occupational health and safety in the workplace and, without restricting the generality of the foregoing, includes
(a) the co-operative identification of hazards to health and safety and effective systems to respond to the hazards;
(b) the co-operative auditing of compliance with health and safety requirements in the workplace;
(c) receipt, investigation and prompt disposition of matters and complaints with respect to workplace health and safety;
(d) participation in inspections, inquiries and investigations concerning the occupational health and safety of the employees and, in particular, participation in an inspection referred to in Section 50;
(e) advising on individual protective devices, equipment and clothing that, complying with this Act and the regulations, are best adapted to the needs of the employees;
(f) advising the employer regarding a policy or program required pursuant to this Act or the regulations and making recommendations to the employer, the employees and any person for the improvement of the health and safety of persons at the workplace;
(g) maintaining records and minutes of committee meetings in a form and manner approved by the Director and providing an officer with a copy of these records or minutes on request; and
(h) performing any other duties assigned to it
(i) by the Director,
(ii) by agreement between the employer and the employees or the union, or
(iii) as are established by the regulations.

Deemed establishment of committee

32 Where a committee was established prior to January 1, 1986, and has been maintained, pursuant to a collective agreement or other arrangement in a workplace, and the Director is satisfied that such committee or arrangement provides benefits for the health and safety of employees equal to or greater than the benefits to be derived under a committee established pursuant to this Act, the committee or arrangement is deemed to have been established in compliance with this Act.

Communication of Information

Response to written recommendations

34 (1) An employer who receives written recommendations from a committee or representative and a request in writing to respond to the recommendations, shall respond in writing to the committee or representative within twenty-one days, and the response shall
(a) indicate acceptance of the recommendations; or
(b) give reasons for the disagreement with any recommendations that the employer does not accept,
or, where it is not reasonably possible to provide a response before the expiry of the twenty-one day period, provide within that time a reasonable explanation for the delay, indicate to the committee or representative when the response will be forthcoming, and provide the response as soon as it is available.

(2) Where the committee or representative makes a request pursuant to subsection (1) and is not satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the chair or co-chairs of the committee, or representative, as the case may be, shall promptly report this fact to an officer.

Duty of employer to provide certain information

35 (1) An employer shall notify the committee or representative, if any, of the existence of reports of
(a) workplace occupational health or safety inspections; and
(b) workplace occupational health or safety monitoring or tests,
undertaken at the workplace by, or at the request of, an officer or the employer and, on request, the employer shall make the reports available to the committee or the representative.

(2) An employer shall make available to an employee at a workplace, on request, reports of
(a) workplace occupational health or safety inspections; and
(b) workplace occupational health or safety monitoring or tests,
undertaken at the workplace by, or at the request of, an officer or the employer.

(3) Within twenty-one days of receiving a request in writing from the committee, representative or, where there is no committee or representative, an employee at a workplace for any information of a health or safety nature other than that specified in subsection (1), the employer shall respond in writing and the response shall
(a) provide the requested information; or
(b) give reasons for not providing the information, in whole or in part,
and where it is not reasonably possible to provide a response before the expiry of the twenty-one day period, provide within that time a reasonable explanation for the delay, indicate to the committee, representative or employee when the response will be forthcoming and provide the response as soon as it is available.

(4) Where the committee, representative or employee makes a request pursuant to subsection (3) and is not satisfied that the explanation provided for a delay in responding is reasonable in the circumstances, the chair or co-chairs of the committee, the representative or the employee, as the case may be, shall promptly report this fact to an officer.

Workplace Monitoring Measurements and Tests

Right of employee to observe and be paid

42 (1) Every employer shall permit an employee selected pursuant to subsection

(2) to observe workplace occupational health or safety monitoring and the taking of samples or measurements that relate to the health or safety of employees at the workplace, unless the monitoring or taking of samples or measurements takes place
(a) continuously or on a regular and frequent basis, except to observe the initial setup of the workplace occupational health or safety monitoring process and to be informed and observe the monitoring where there has been a malfunction of the monitor or alteration in the process;
(b) in a location that is remote and is part of the regular task of a person employed at the location; or
(c) during an emergency situation,
and time spent by the employee in such activities is deemed to be work time for which the employee shall be paid by the employer at the applicable rate.

(2) Where there is
(a) a committee or representative at a workplace, the employee who observes workplace occupational health or safety monitoring and the taking of samples or measurements shall be selected by the committee or representative, as the case may be; or
(b) no committee or representative at a workplace, the employee who observes workplace occupational health or safety monitoring and the taking of samples or measurements shall be selected by the employees.

(3) Every employer shall provide
(a) reasonable notice to an observer of the commencement of the occupational health or safety monitoring and of the taking of samples or measurements undertaken pursuant to subsection (1); and
(b) access to a workplace for the purpose of the observation.

(4) Where an observer requests, the procedure for occupational health or safety monitoring and the taking of samples or measurements shall be identified and explained to the observer.

(5) Where an owner, constructor or contractor performs occupational health or safety monitoring or takes samples or measurements that relate to the health or safety of employees at the workplace,

(a) the owner, constructor or contractor shall provide reasonable notice to all employers at the workplace of the commencement of the occupational health or safety monitoring and of the taking of samples or measurements; and

(b) the requirements of subsections (1) to (4) apply.

(6) Where the monitoring, samples or measurements referred to in subsection (1) are conducted by, or at the request of, an officer, the officer may undertake the monitoring, samples or measurements whether or not notice has been given pursuant to subsection (3) or (5).

Right to Refuse Work

Right to refuse work and consequences of refusal

43 (1) Any employee may refuse to do any act at the employee's place of employment where the employee has reasonable grounds for believing that the act is likely to endanger the employee's health or safety or the health or safety of any other person until

(a) the employer has taken remedial action to the satisfaction of the employee

(b) the committee, if any, has investigated the matter and unanimously advised the employee to return to work; or

(c) an officer has investigated the matter and has advised the employee to return to work.

(2) Where an employee exercises the employee's right to refuse to work pursuant to subsection (1), the employee shall

(a) immediately report it to a supervisor;

(b) where the matter is not remedied to the employee's satisfaction, report it to the committee or the representative, if any; and

(c) where the matter is not remedied to the employee's satisfaction after the employee has reported pursuant to clauses (a) and (b), report it to the Division.

(3) At the option of the employee, the employee who refuses to do any act pursuant to subsection (1) may accompany an officer or the committee or representative, if any, on a physical inspection of the workplace, or part thereof, being carried out for the purpose of ensuring others understand the reasons for the refusal.

(4) Notwithstanding subsection 50(8), an employee who accompanies an officer, the committee or a representative, as provided in subsection (3), shall be compensated in accordance with subsection (7), but the compensation shall not exceed that which would otherwise have been payable for the employee's regular or scheduled working hours.

(5) Subject to any applicable collective agreement, and subsection (3), where an employee refuses to do work pursuant to subsection (1), the employer may reassign the employee to other work and the employee shall accept the reassignment until the employee is able to return to work pursuant to subsection (1).

(6) Where an employee is reassigned to other work pursuant to subsection (5), the employer shall pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued in the employee's normal work.

(7) Where an employee has refused to work pursuant to subsection (1) and has not been reassigned to other work pursuant to subsection (5), the employer shall, until clause (1)(a), (b) or (c) is met, pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued to work.

(8) A reassignment of work pursuant to subsection (5) is not discriminatory action pursuant to Section 45.

(9) An employee may not, pursuant to this Section, refuse to use or operate a machine or thing or to work in a place where

(a) the refusal puts the life, health or safety of another person directly in danger; or

(b) the danger referred to in subsection (1) is inherent in the work of the employee.

Restriction on assignment of work where refusal

44 Where an employee exercises the employee's right to refuse to work pursuant to subsection 43(1), no employee shall be assigned to do that work until the matter has been dealt with under that subsection, unless the employee to be so assigned has been advised of
(a) the refusal by another employee;
(b) the reason for the refusal; and
(c) the employee's rights pursuant to Section 43.

Discriminatory Action

Prohibition of "discriminatory action"

45 (1) In this Section and in Section 46, "discriminatory action" means an action that adversely affects an employee with respect to terms or conditions of employment or any opportunity for employment or promotion and includes dismissal, layoff, suspension, demotion, transfer of job or location, change in hours of work, coercion, intimidation, imposition of any discipline, reprimand or other penalty including reduction in wages, salary or other benefits, or the discontinuation or elimination of the job of the employee.

(2) No employer or union shall take, or threaten to take, discriminatory action against an employee because the employee has acted in compliance with this Act or the regulations or an order or direction made thereunder or has sought the enforcement of this Act or the regulations or, without limiting the generality of the foregoing, because
(a) of the participation of the employee in, or association with, a committee or the employee has sought the establishment of a committee or performed functions as a committee member;
(b) of the association of the employee with a representative or the employee has sought the selection of a representative or performed functions as a representative;
(c) the employee has refused to work pursuant to subsection 43(1);
(d) the employee has sought access to information to which the employee is entitled by this Act or the regulations, or has been assigned the role of observer pursuant to Section 42;
(e) the employee has testified or is about to testify in any proceeding or inquiry pursuant to this Act or the regulations; or
(f) the employee has given information to the committee, a representative, an officer or other person concerned with the administration of this Act or the regulations with respect to the health and safety of employees at the workplace,
unless the employer or union, as the case may be, establishes that such action is solely motivated by legitimate business reasons.

(3) On an inquiry into a complaint pursuant to Section 46 alleging that there has been a failure by an employer or a union to comply with subsection (2), the burden of proving that there has been no such failure is upon the employer or the union, as the case may be.

Accompaniment during inspections

50 (1) For the purpose of this Section, "inspection" means a physical inspection of a workplace, or any part or parts of a workplace, pursuant to the powers conferred upon an officer pursuant to Section 47.

(2) Where an officer conducts an inspection,
(a) the employer shall give the representative or an employee member of the committee, if any; and
(b) a representative of the employer shall have,
the opportunity to accompany the officer during the officer's inspection.

(3) Where there is no committee member representing employees or representative available, the officer may select one or more employees who shall accompany the officer during the officer's inspection.

(4) Where a representative or employee member of the committee is unavailable to accompany the officer during the officer's inspection, the officer shall endeavor to consult with a reasonable number of employees during the inspection.

(5) For greater certainty, where
(a) a person referred to in clause (2)(a) or (b) is unavailable to accompany an officer during the officer's inspection; and
(b) in the officer's opinion it is necessary to proceed with the inspection without accompaniment,
the officer may conduct the inspection without accompaniment.

(6) Notwithstanding subsections (2) and (3) and subject to subsection (7), an officer may question any person who is or was in a workplace either separate and apart from another person or in the presence of any other person regarding anything that is or may be relevant to the officer's inspection, examination, investigation, inquiry or test.

(7) The individual who is questioned pursuant to subsection (6) may request to be accompanied and may be accompanied by another person during the questioning.

(8) Subject to subsection 43(4), time spent by a committee member, representative or employee in accompanying or consulting with an officer during an inspection is deemed to be work time for which the committee member, representative or employee shall be paid by the employer at the applicable rate.

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